

Appl. No. 09/855,337  
Atty Docket No. 8085  
Response dated September 29, 2004  
Reply to Office Action dated June 29, 2004

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### REMARKS

Claims 1-58 are pending in the application for the Examiner's review and consideration.

### CLAIM REJECTIONS UNDER 35 U.S.C. §102

Claims 1-16, 18-30, 33-43, 49, 51 and 53-55 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,879,666 to Lucas *et al.* (hereinafter "Lucas '666") or U.S. Patent No. 5,874,067 to Lucas *et al.* (hereinafter "Lucas '067"). Since neither of the references discloses Applicants' claimed invention, Applicants respectfully traverse the rejection.

Both Lucas references disclose body deodorant formulations that include cyclodextrin. The cyclodextrin component can be uncomplexed. However, many other ingredients are taught in the Lucas references that will complex with uncomplexed cyclodextrin when combined in a deodorant formulation. For example, Lucas states that "suitable emulsifiers are nonionic surfactants, anionic surfactants, cationic surfactants, amphoteric surfactants, zwitterionic surfactants, deterative surfactants and mixtures thereof" (Lucas'666 - Col. 5, lines 17-20, Lucas'067 - Col. 5, lines 6-9). However, as Applicants indicated in their specification on page 24, lines 7-8, many of these surfactants are unsuitable in Applicant's claimed invention since they would complex with the cyclodextrin. In other words, a large percentage of the thousands of formulations suggested in the Lucas references would not have the "functionally available cyclodextrin" claimed by Applicants.

The specific examples disclosed in both Lucas references do not disclose a composition having both functionally available cyclodextrin and a cyclodextrin-compatible surfactant, as claimed by Applicants. The Lucas references share the same three specific examples. All of these examples contain a large amount of "Dow Corning 365," in addition to other ingredients, including hydroxy propyl beta cyclodextrin. The "Dow Corning 365" ingredient is 35% dimethicone and 65% other ingredients. The other ingredients include octylphenoxy polyethoxy ethanol and polyethylene glycol sorbitan monolaurate (see the attached Material Safety and Data sheet for Dow Corning 365, page 6). Both of these other ingredients would complex with the cyclodextrin. As a result, the formulations disclosed in the Lucas examples do not have "functionally available cyclodextrin," as claimed by

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Applicants. Therefore, Applicants respectfully contend that the Lucas references do not anticipate Applicants' claimed invention.

### CLAIM REJECTIONS UNDER 35 U.S.C. §103

#### Lucas '666 or Lucas '067

Claims 44, 50, 52 and 56-58 were rejected under 35 U.S.C. §103(a) as being unpatentable over Lucas '666 or Lucas '067. Applicants respectfully traverse this rejection. The references do not establish a *prima facie* case of obviousness since they do not teach or suggest all of Applicants' claim limitations (see MPEP 2143.03). Specifically, the Lucas references do not teach or suggest a composition having both functionally available cyclodextrin and a cyclodextrin-compatible surfactant, as claimed by Applicants.

As discussed above, the Lucas references do not teach formulations containing functionally available cyclodextrin and a cyclodextrin-compatible surfactant, since the cyclodextrin in the examples would be complexed with ingredients from the Dow Corning 365. Also, the Lucas references do not suggest Applicants' claimed invention. Both Lucas references disclose body deodorant formulations that include cyclodextrin. The cyclodextrin component can be uncomplexed. However, many other ingredients are taught in the Lucas references that will complex with uncomplexed cyclodextrin when combined in a deodorant formulation. For example, Lucas states that "suitable emulsifiers are nonionic surfactants, anionic surfactants, cationic surfactants, amphoteric surfactants, zwitterionic surfactants, deterative surfactants and mixtures thereof" (Lucas'666 - Col. 5, lines 17-20, Lucas'067 - Col. 5, lines 6-9). However, as Applicants indicated in their specification on page 24, lines 7-8, many of these surfactants are unsuitable in Applicant's claimed invention since they would complex with the cyclodextrin. In other words, a large percentage of the thousands of formulations suggested in the Lucas references would not have the "functionally available cyclodextrin" claimed by Applicants.

There is no discussion in either Lucas reference regarding the desirability of using formulation components that do not complex strongly with cyclodextrin. Instead, a large variety of compounds are disclosed, some of which would not complex with cyclodextrin and some which would complex strongly. One skilled in the art would have no reason or motivation to pick and choose non-complexing components based on the Lucas references.

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As a result, Applicants contend that their claimed invention is novel and unobvious and that the rejection under 35 U.S.C. 103(a) should be withdrawn.

Lucas '666 or Lucas '067 view of Hodul or in view of Hodul and Dharmawardana

Claims 17, 31, 32 and 45-48 were rejected under 35 U.S.C. §103(a) as being unpatentable over Lucas '666 or Lucas '067 in view of Hodul *et al.* (Tenside, Surfactants & Detergents, 1997 – hereinafter “Hodul”) or in view of Hodul and Dharmawardana *et al.* (Langmuir, 1993 – hereinafter “Dharmawardana”). Applicants respectfully traverse this rejection. The references do not establish a *prima facie* case of obviousness since they do not teach or suggest all of Applicants' claim limitations (see MPEP 2143.03). Specifically, the references do not teach or suggest a composition having both functionally available cyclodextrin and a cyclodextrin-compatible surfactant, as claimed by Applicants.

As discussed above, the Lucas references do not teach formulations containing functionally available cyclodextrin and a cyclodextrin-compatible surfactant, since the cyclodextrin in the examples would be complexed with ingredients from the Dow Corning 365. Also, the Lucas references do not suggest Applicants' claimed invention. Both Lucas references disclose body deodorant formulations that include cyclodextrin. The cyclodextrin component can be uncomplexed. However, many other ingredients are taught in the Lucas references that will complex with uncomplexed cyclodextrin when combined in a deodorant formulation. For example, Lucas states that “suitable emulsifiers are nonionic surfactants, anionic surfactants, cationic surfactants, amphoteric surfactants, zwitterionic surfactants, deterative surfactants and mixtures thereof” (Lucas'666 – Col. 5, lines 17-20, Lucas'067 – Col. 5, lines 6-9). However, as Applicants indicated in their specification on page 24, lines 7-8, many of these surfactants are unsuitable in Applicant's claimed invention since they would complex with the cyclodextrin. In other words, a large percentage of the thousands of formulations suggested in the Lucas references would not have the “functionally available cyclodextrin” claimed by Applicants. The Hodul and Dharmawardana references do not cure this deficiency.

There is no discussion in any of the references regarding the desirability of using formulation components that do not complex strongly with cyclodextrin. Instead, a large variety of compounds are disclosed, some of which would not complex with cyclodextrin and some which would complex strongly. One skilled in the art would have no reason or

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motivation to pick and choose non-complexing components based on the cited references. As a result, Applicants contend that their claimed invention is novel and unobvious and that the rejection under 35 U.S.C. 103(a) should be withdrawn.

With regard to all claims not specifically mentioned, these are believed to be allowable not only in view of their dependency on their respective base claims and any intervening claims, but also for the totality of features recited therein.

All claims are believed to be in condition for allowance. Should the Examiner disagree, Applicants respectfully invite the Examiner to contact the undersigned attorney for Applicants to arrange for a telephonic interview in an effort to expedite the prosecution of this matter.

#### CONCLUSION

In view of the foregoing amendments and accompanying remarks, reconsideration of the application and allowance of all claims are respectfully requested. No fee is believed to be due for the amendments herein. Should any fee be required, please charge such fee to Procter & Gamble Deposit Account No. 16-2480.

Respectfully submitted,

By 

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